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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,478	11/20/2003	Ram Pandit	02734-0609	6866
22852	7590	11/14/2008	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			LOFTIS, JOHNNA RONEE	
ART UNIT	PAPER NUMBER	3624		
MAIL DATE		DELIVERY MODE		
11/14/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/716,478	<b>Applicant(s)</b> PANDIT, RAM
	<b>Examiner</b> JOHNNA R. LOFTIS	<b>Art Unit</b> 3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 15 July 2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-30 is/are pending in the application.
  - 4a) Of the above claim(s)       is/are withdrawn from consideration.
- 5) Claim(s)       is/are allowed.
- 6) Claim(s) 1-30 is/are rejected.
- 7) Claim(s)       is/are objected to.
- 8) Claim(s)       are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on       is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No.      .
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date:
- 5) Notice of Informal Patent Application
- 6) Other:

**DETAILED ACTION**

1. The following is a final office action upon examination of application number in response to the amendment filed 7/15/08. Claims 1-30 are pending and have been examined on the merits discussed below.

*Response to Arguments*

2. Applicant's arguments filed 7/15/08 have been fully considered but they are not persuasive. Applicant argues the reference does not teach analyzing past load history based on dedicated and common carrier rates. Examiner respectfully disagrees. The whole concept of the referenced system is to determine the most cost effective routes/tours. One example given uses the two companies General Mills and Georgia-Pacific. The example states that General Mills ships a truckload of products from a General Mills plant to a distribution destination on the East Coast. Instead of returning an empty truck, Georgia-Pacific opts to use the General Mills truck to ship their goods on the return trip to the Midwest destination. Inherently in analyzing routes, General Mills considers the cost effectiveness of transporting Georgia-Pacific products instead of returning an empty truck, while Georgia-Pacific is considering the cost effectiveness of using the General Mills truck instead of the more expensive option of sending their own (dedicated) truck for transport. The reference goes on to state that one tour generates an annual shared cost-saving of more than \$730,000 for the two companies.

3. Previous rejections under 35 USC 112 have been withdrawn.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2 and 7 rejected under 35 U.S.C. 102(b) as being anticipated by Strozniak, "Sharing the Load."

As per claim 1, Strozniak teaches analyzing past load history based on dedicated and common carrier rates (page 5 - inherently in analyzing routes, General Mills considers the cost effectiveness of transporting Georgia-Pacific products instead of returning an empty truck, while Georgia-Pacific is considering the cost effectiveness of using the General Mills truck instead of the more expensive option of sending their own (dedicated) truck for transport), the past load history having a plurality of load data, wherein the load data has an origination location and a destination location (page4, para3 – loads are analyzed to create shared routes between manufacturers); automatically creating the tour schematic based on analysis of the past load history (page4, para3 – automated system wherein loads are analyzed to create shared routes between manufacturers); and validating the created tour schematic (page8, top – routes are created based on business rules)

As per claim 2, Strozniak teaches analyzing past load history further comprises setting the first accent point at a cluster of origination or destination locations (page7para3 – locations are set based on load availability, ie, loads are being shipped from Dallas to Atlanta – the route

back to Dallas includes a stop in Memphis due to load requiring transport from Atlanta and load requiring transport from Memphis to Dallas).

As per claim 7, Strozniak teaches validating the created schematic further comprises validating that the created schematic meets a set of business rules (page7, para4 - page8, para1 – logistics are automated based on company rules).

Claims 11, 12, and 17 are directed to the system for performing the method of claims 1, 2 and 7. Since Strozniak teaches a collaborative logistics system running over the Internet (page 4), the same rejections as applied to claims 1, 2 and 7 are applied to claims 11, 12 and 17.

Claims 21, 22, and 27 are directed to the article of manufacture with instructions for performing the method of claims 1, 2 and 7. Since Strozniak teaches a collaborative logistics system running over the Internet (page 4), the same rejections as applied to claims 1, 2 and 7 are applied to claims 11, 12 and 17.

#### *Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3-6, 8-10 13-16, 18-20, 23-26 and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strozniak, “Sharing the Load.”

As per claim 3, Strozniak teaches the first accent point is set (page7para3 – locations are set based on load availability, ie, loads are being shipped from Dallas to Atlanta – the route back

to Dallas includes a stop in Memphis due to load requiring transport from Atlanta and load requiring transport from Memphis to Dallas) but does not explicitly teach the cluster of origination or destinations exceeds a threshold value. Official notice is taken that it would have been obvious to one of ordinary skill in the art at the time of the invention to consider threshold values when setting accent points to keep scheduled tours within limits. If a tour is scheduled between Dallas and Atlanta, it would be costly and time consuming to schedule a second lane to Pittsburgh then continuing on the Dallas. Pittsburgh would be “out of the way”, so to speak. The threshold values would keep the costs down and would optimize deliveries.

As per claim 4, Strozniaak teaches analyzing past load history further comprises establishing the first lane from the first accent point to the second accent point if the past load history indicates a number of load data from within the first accent point to within the second accent point (page7para3 – locations are set based on load availability, ie, loads are being shipped from Dallas to Atlanta – the route back to Dallas includes a stop in Memphis due to load requiring transport from Atlanta and load requiring transport from Memphis to Dallas) but does not explicitly teach exceeding a threshold value. Official notice is taken that it would have been obvious to one of ordinary skill in the art at the time of the invention to consider threshold values when setting accent points to keep scheduled tours within limits. If a tour is scheduled between Dallas and Atlanta, it would be costly and time consuming to schedule a second lane to Pittsburgh then continuing on the Dallas. Pittsburgh would be “out of the way”, so to speak. The threshold values would keep the costs down and would optimize deliveries.

As per claim 5, Strozniaak teaches creating the tour schematic further comprises linking the first lane with a second lane, wherein the second accent point of the first lane is the same as

the first accent point of the second lane (page7para3 – locations are set based on load availability, ie, loads are being shipped from Dallas to Atlanta – the route back to Dallas includes a stop in Memphis due to load requiring transport from Atlanta and load requiring transport from Memphis to Dallas)

As per claim 6, teaches creating the tour schematic further comprises linking the second lane with a third lane, wherein a second accent point of the second lane is the same as the first accent point of the third lane, and further wherein a second accent point of the third lane is the same as the first accent point of the first lane (page7para3 – locations are set based on load availability, ie, loads are being shipped from Dallas to Atlanta – the route back to Dallas includes a stop in Memphis due to load requiring transport from Atlanta and load requiring transport from Memphis to Dallas)

As per claim 8, Stroznik teaches logistics are automated based on company rules (page7, para4 - page8, para1), but does not explicitly teach the set of business rules includes at least one of a maximum length without driver break, a maximum total miles within the schematic and a minimum total miles within the schematic. Official notice is taken that it would have been obvious to one of ordinary skill in the art to consider business rules such as maximum and minimum length when setting accent points to keep scheduled tours within limits. If a tour is scheduled between Dallas and Atlanta, it would be costly and time consuming to schedule a second lane to Pittsburgh then continuing on the Dallas. Pittsburgh would be “out of the way”, so to speak. The threshold values would keep the costs down and would optimize deliveries.

As per claim 9, Stroznik teaches logistics are automated based on company rules (page7, para4 - page8, para1), but does not explicitly teach the set of business rules includes at least one

of a maximum length without driver break, a maximum total miles within the schematic and a minimum total miles within the schematic. Official notice is taken that it would have been obvious to one of ordinary skill in the art to consider business rules such as maximum and minimum length when setting accent points to keep scheduled tours within limits. If a tour is scheduled between Dallas and Atlanta, it would be costly and time consuming to schedule a second lane to Pittsburgh then continuing on the Dallas. Pittsburgh would be "out of the way", so to speak. The threshold values would keep the costs down and would optimize deliveries.

As per claim 10, Stroznik teaches logistics are automated based on company rules (page7, para4 - page8, para1), but does not explicitly teach the set of business rules includes at least one of a maximum length without driver break, a maximum total miles within the schematic and a minimum total miles within the schematic. Official notice is taken that it would have been obvious to one of ordinary skill in the art to consider business rules such as maximum and minimum length when setting accent points to keep scheduled tours within limits. If a tour is scheduled between Dallas and Atlanta, it would be costly and time consuming to schedule a second lane to Pittsburgh then continuing on the Dallas. Pittsburgh would be "out of the way", so to speak. The threshold values would keep the costs down and would optimize deliveries..

Claims 13-16 and 18-20 are directed to the system for performing the method of claims 3-6 and 8-10. Since Stroznik teaches a collaborative logistics system running over the Internet (page 4), the same rejections as applied to claims 3-6 and 8-10 are applied to claims 13-16 and 18-20.

Claims 23-26 and 28-30 are directed to the article of manufacture with instructions for performing the method of claims 3-6 and 8-10. Since Stroznik teaches a collaborative logistics

system running over the Internet (page 4), the same rejections as applied to claims 3-6 and 8-10 are applied to claims 23-26 and 28-30.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHNNA R. LOFTIS whose telephone number is (571)272-6736. The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brad Bayat can be reached on 571-272-6636. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/jl/  
11/10/08

/Bradley B Bayat/  
Supervisory Patent Examiner, Art Unit 3624